



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WAGGONER CARR
ATTORNEY GENERAL

May 10, 1965

Mr. J. W. Edgar
Commissioner of Education
Texas Education Agency
Austin, Texas

No. C- 437

Re: Under the stated facts, what is the present limitation in a Junior College District on the amount of tax which may be levied for all purposes?

Dear Mr. Edgar:

In your letter of April 15, 1965, you have requested that the Attorney General answer the following question:

"In light of Art. 2815h-3b, Sec. 2 and the stated phrasing of the voted propositions, may the Junior College District in question annually levy: (1) for maintenance of its schools--30¢ on the \$100 valuations; and in addition, (2) for the servicing of bonds--not to exceed 50¢ on the \$100 valuation?"

The facts giving rise to the query, as reflected in your request, are that in February 1962 there were submitted to the qualified voters of Hillsboro Junior College District of Hill and Navarro Counties, Texas, two propositions, pursuant to the provisions of Article 2815h-3b, Vernon's Civil Statutes, both of which carried in the election.

These two propositions were as follows:

"PROPOSITION NUMBER 1

"SHALL the Board of Trustees of HILLSBORO JUNIOR COLLEGE DISTRICT OF HILL AND NAVARRO COUNTIES, TEXAS, have the power to levy and collect an annual ad valorem

tax not to exceed THIRTY CENTS (30¢) on the one hundred dollars' valuation of taxable property within the District for the maintenance of schools therein, until the same shall be discontinued as provided by law?"

"PROPOSITION NUMBER 2

"SHALL the Board of Trustees of HILLSBORO JUNIOR COLLEGE DISTRICT OF HILL AND NAVARRO COUNTIES, TEXAS, be authorized to issue the bonds of said District, to the amount of FOUR HUNDRED FIFTY THOUSAND DOLLARS (\$450,000.00), to become due and payable serially as follows:

" . . . (The specific maturity schedule was set forth)

" . . . and shall there be annually levied and collected on all taxable property in said District for the current year and annually thereafter while said bonds or any of them are outstanding, a tax sufficient to pay the current interest on said bonds and the principal thereof as the same becomes due?"¹

With this in mind, then we turn to the real questions involved here: (1) whether the maintenance tax and the bond tax provided for by Article 2815h-3b are to be voted separately and independently of each, or (2) whether the amount voted for maintenance limits the total taxing power of the district for both maintenance and bond purposes, so that any bond tax voted will decrease the amount available for maintenance.

This office has written various opinions, the latest of which is Opinion V-364 (1947), to which you refer in your letter, on essentially this same question with regard to

¹ An identical proposition was held to authorize whatever tax rate was necessary, up to the legal maximum. Wilkerson v. Otto, 289 S.W.2d 411 (Tex.Civ.App. 1956)

common and independent school districts and concluded, based on the specific language of the statutes applicable thereto, that the second of the above interpretations was correct, i.e., that the amount of the maintenance tax voted limited the total taxing power of the district for both maintenance and bond purposes. However, the above mentioned opinion, and the others which reached similar conclusions, involved the interpretation of statutes other than Article 2815h-3b.

The Supreme Court of Texas has construed Article 2815h-3b in the case of San Antonio Union Junior College District v. Daniel, 146 Tex. 241, 206 S.W.2d 995 (1956). The Court held that Article 2815h-3b is complete within itself. Therefore, that article is exclusive as to matters regarding which its own provisions are clear, explicit and self-sufficient.

Here we are concerned with the specific language used in Article 2815h-3b. In this regard, a portion of Section 1 and all of Section 2a are pertinent and read as follows:

"Section 1. From and after the passage of this Act, the governing boards of all public Junior Colleges organized, created and established under the laws of Texas, in any manner, shall have power to issue bonds for the construction and equipment of school buildings and the acquisition of sites therefor, and to provide for the interest and sinking fund for such bonds by levying of such taxes as will be necessary in this connection, subject to the limitations hereinafter imposed. Such governing boards shall also have power to levy and collect taxes for the support and maintenance of such Junior Colleges, provided that no bonds shall be issued and no taxes collected until authorized by vote of the majority of the qualified voters of the Junior College District in which such Junior College is located, at an election called for that purpose in accordance with the provisions of the General Law providing for similar elections in Independent School Districts. The election for the issuance of such bonds; for the levying of such tax or taxes, shall be ordered by such governing board upon petition signed by two hundred and fifty(250), or a majority, of the

qualified property taxpaying voters residing in such district, praying for the issuance of such bonds and/or the levying of such tax or taxes. . . ."

(Emphasis added.)

" * * *

"Sec. 2a. The Governing Board of Junior Colleges, in addition to the levying and collecting of the annual ad valorem tax not to exceed One Dollar (\$1) on the One Hundred Dollars (\$100) valuation of taxable property within the district for the maintenance of schools therein, shall have the power to levy a tax not to exceed Fifty cents (50¢) on the One Hundred Dollars (\$100) valuation of taxable property within the district for the construction and equipment of school buildings and the acquisition of sites therefor within the limits of the district, when authorized by an election as aforesaid; provided, however, that the amount of maintenance tax together with the amount of bond tax of the district shall never exceed One Dollar (\$1) on the One Hundred Dollars (\$100) valuation of taxable property." (Emphasis added)

In view of the above language, it is our opinion that the Legislature in enacting Art. 2815h-3b clearly contemplated that under its provisions, junior college districts can (1) vote a maintenance tax in any amount up to a maximum of \$1.00 per \$100.00 valuation; (2) that they can separately vote bonds and the taxes necessary for servicing them, not to exceed a maximum of 50¢ per \$100.00 valuation; and (3) that the amount of maintenance tax together with the amount of bond tax of the district shall never exceed One Dollar (\$1) on the Hundred Dollars (\$100) valuation of taxable property.

Accordingly, our answer to your specific question is in the affirmative; Hillsboro Junior College District of Hill and Navarro Counties can, under the phrasing of the voted propositions, annually levy (1) for maintenance of its

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schools a tax of 30¢ per \$100.00 valuation on taxable property; and in addition (2) for the servicing of bonds, taxes not to exceed 50¢ per \$100.00 valuation of taxable property.

S U M M A R Y

In light of Article 2815h-3b and the stated phrasing of the voted propositions, the junior college district in question may annually levy:
(1) for maintenance of its schools - 30¢ per \$100.00 valuation of taxable property; and in addition
(2) for the servicing of bonds - not to exceed 50¢ on the \$100.00 valuation of taxable property.

Respectfully submitted,

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James M. Strock
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JMS:nh

APPROVED BY:
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